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Letter dated 8 January 2010 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan (see annex), which covers the Committee's activities during the period from 1 January to 31 December 2009. The report is submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

(*Signed*) Thomas **Mayr-Harting**
Chairman
Security Council Committee established pursuant
to resolution 1591 (2005) concerning the Sudan

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Annex

Report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

I. Introduction

1. The present report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan covers the period from 1 January to 31 December 2009.

2. During this period, the Bureau consisted of Thomas Mayr-Harting (Austria) as Chairman, with the delegations of Croatia and Mexico providing the Vice-Chairmen. In 2009, the Committee held eight informal consultations. The web page of the Committee is available at www.un.org/sc/committees/1591.

II. Background information and activities of the Committee

A. Background information

3. By its resolution 1556 (2004), the Security Council imposed an arms embargo on all non-governmental entities and individuals, including the Janjaweed, operating in the states of Northern Darfur, Southern Darfur and Western Darfur in the Sudan.

4. By its resolution 1591 (2005), the Council broadened the scope of the arms embargo, with immediate effect, to include all the parties to the N'Djamena Ceasefire Agreement and any other belligerents in the states of Northern Darfur, Southern Darfur and Western Darfur. By the same resolution, the Council established a Committee to monitor the implementation of the arms embargo and the two additional measures imposed by the resolution, namely, a travel ban and an assets freeze on those individuals designated by the Committee on the basis of the criteria contained in the resolution. The travel ban and the assets freeze entered into effect on 29 April 2005.

5. By its resolution 1591 (2005), the Security Council also established, for a period of six months, a four-member Panel of Experts to assist the Committee in monitoring the implementation of the arms embargo, travel ban and assets freeze, to report to the Council through the Committee with its findings and recommendations, and to coordinate its activities as appropriate with ongoing operations of the African Union Mission in the Sudan (AMIS). Under the same resolution, the Panel of Experts was also identified as a source of information regarding individuals who might be designated by the Committee as subject to the targeted sanctions.

6. The mandate of the Panel of Experts has been extended six times, by Security Council resolutions 1651 (2005), 1665 (2006), 1713 (2006), 1779 (2007), 1841 (2008) and 1891 (2009). The current extension expires on 15 October 2010. In resolution 1713 (2006), the Council authorized the addition of a fifth expert to enable the Panel to better carry out its mission. In its resolutions 1779 (2007), 1841 (2008) and 1891 (2009), the Council also requested the Panel to coordinate its activities as appropriate with the operations of the African Union-United Nations Hybrid Operation in Darfur (UNAMID), which succeeded AMIS, and with international efforts to promote the political process in Darfur. In addition, in the

same resolutions, the Council requested the Panel to assess in its interim and final reports progress towards reducing violations by all parties of the arms embargo, the travel ban and the assets freeze, and progress towards removing impediments to the political process, threats to stability in Darfur and the region and other violations of resolutions 1556 (2004) and 1591 (2005). Following each extension, the Secretary-General appointed individuals to serve on the Panel (see S/2005/428, S/2006/23, S/2006/99, S/2006/301, S/2006/926, S/2007/706, S/2008/743 and S/2009/639).

7. In the course of its mandate and in accordance with the relevant Security Council resolutions, the Panel of Experts submitted and/or presented eight written interim/progress reports, dated 7 October 2005, 15 July 2006, 16 March 2007, 2 July 2007, 27 March 2008, 11 August 2008, 2 March 2009 and 25 May 2009; and two midterm reports, dated 14 May 2008 and 30 April 2009. The Panel also submitted and presented, at the end of each mandate, six final reports to the Committee, which were subsequently transmitted by the Chairman to the President of the Council and were issued as documents (S/2006/65, S/2006/250, S/2006/795, S/2007/584, S/2008/647 and S/2009/562).

8. By its resolution 1672 (2006), the Security Council designated four individuals as subject to the travel ban and assets freeze imposed by resolution 1591 (2005).

9. By its resolution 1679 (2006), the Security Council expressed its intention to consider taking, including in response to a request by the African Union, strong and effective measures, such as a travel ban and assets freeze, against any individual or group that violated or attempted to block the implementation of the Darfur Peace Agreement.

10. By its resolution 1769 (2007), the Security Council decided that UNAMID would monitor whether any arms or related material were present in Darfur in violation of the Agreements and the measures imposed by paragraphs 7 and 8 of resolution 1556 (2004).

11. By a presidential statement dated 24 October 2007 (S/PRST/2007/41), the Security Council called on all parties to attend and to engage fully and constructively in the talks in Sirte, Libyan Arab Jamahiriya, and, as a first step, to urgently agree and implement a cessation of hostilities to be overseen by the United Nations and the African Union. The Council underlined its willingness to take action against any party that sought to undermine the peace process, including by failing to respect such a cessation of hostilities or by impeding the talks, peacekeeping or humanitarian aid.

12. By a presidential statement of 11 January 2008 (S/PRST/2008/1), the Security Council expressed its readiness to take action against any party that impeded the peace process, humanitarian aid or the deployment of UNAMID. The Council also recognized that due process had to take its course.

13. By a presidential statement of 16 July 2008 (S/PRST/2008/27), the Security Council underlined its determination to take action against those responsible for the attack on 8 July 2008 on a UNAMID military and police convoy after hearing the outcome of the UNAMID investigation into the attack.

14. By its resolution 1828 (2008), the Security Council reiterated its readiness to take action against any party that impeded the peace process, humanitarian assistance or the deployment of UNAMID and recognized that due process had to take its course.

B. Summary of the activities of the Committee

15. During the period under review, the Committee transmitted a note verbale to all Member States drawing their attention to paragraph 5 of Security Council resolution 1891 (2009), in which the Council encouraged all States, in particular those in the region, to report to the Committee on the actions they had taken to implement measures imposed by resolutions 1591 (2005) and 1556 (2004). To date, the Committee has received a report from one Member State.

16. In informal consultations on 27 January 2009, the Committee heard an interim briefing by the Panel of Experts reconstituted pursuant to resolution 1848 (2008) and discussed its own programme of work for 2009.

17. In informal consultations on 3 March 2009, the Committee discussed a progress report submitted by the Panel of Experts. Given the non-issuance of a visa by the Government of the Sudan to the arms expert and, subsequently, the lack of United Nations security clearance owing to security conditions on the ground, the Panel had been unable to visit the Sudan. The Panel had thus travelled to Chad to pursue secondary priorities of its mandate. In those same informal consultations, the Chairman briefed the Committee on his bilateral contacts with the Permanent Representatives of the Sudan and Chad, respectively, with a view to scheduling an informal exchange of views with these representatives in the Committee.

18. In informal consultations on 28 April 2009, the Committee held an exchange of views with the African Union-United Nations Joint Special Representative for Darfur and Head of UNAMID, Rodolphe Adada, on matters related to the work of the Committee.

19. In informal consultations on 26 May 2009, the Committee discussed the midterm report, submitted on 30 April, of the Panel of Experts and also received a written update dated 25 May from the Panel. Since the writing of its midterm report, the Panel had been able to travel to the Sudan, although without the arms expert who had not received a visa and who subsequently resigned. The Panel made two recommendations in the midterm report: the first related to information-sharing between the relevant peacekeeping operations and the Panel; the second related to security clearance for the Panel. On 2 June 2009, the Chairman forwarded these recommendations to the two relevant officials in the United Nations Secretariat for their views. These officials replied to the Committee by letters dated 8 June and 9 September 2009, respectively.

20. In informal consultations on 8 July 2009, the Committee heard an oral progress report by the Panel of Experts. On 29 July, pursuant to a written request for assistance received from the Panel, the Chairman sent a letter to the Permanent Representative to the United Nations of the State concerned, requesting his assistance in expediting a response to the Panel's pending requests for information and assistance submitted to his Government, as well as in facilitating a possible visit by the Panel to his capital. In replies dated 6 and 26 August, addressed to the Chairman, the Chargé d'affaires a.i. of the relevant Mission to the United Nations provided the Panel with information on the matter.

21. In informal consultations on 6 and 20 October 2009 respectively, the Committee heard an oral presentation by the Panel of Experts on its final report as well as on the confidential annex to that report, both dated 2 October, and discussed

the recommendations contained in the final report. The members of the Committee agreed to take action on one of those recommendations.

22. In informal consultations on 7 December 2009, the Committee was given an introductory briefing by a representative of the Department of Peacekeeping Operations on the provisional guidelines for peacekeeping missions in support of Security Council panels. These guidelines outline the support to be provided by the relevant peacekeeping missions to the panels of experts under three categories: information-sharing; logistics/administrative support; and security. Thereafter, members of the Committee addressed questions and comments to the presenter. The idea of such guidelines had originated in the midterm report of the Panel of Experts on the Sudan, following which, in resolution 1891 (2009) the Council had welcomed the announcement by the Department of Peacekeeping Operations of the preparation of such a document.

23. During the period under review, in accordance with subparagraph 3 (a) (iv) of resolution 1591 (2005), the Chairman delivered four 90-day reports to the Security Council, in each of which he described the Committee's activities since his last briefing to the Council. The Chairman delivered the 90-day reports in informal consultations of the whole on 10 March, 19 June, 15 September and 15 December 2009.

24. In conducting its work, the Committee continued to apply its guidelines adopted on 23 March 2006 and amended on 27 December 2007. Among other purposes, the guidelines serve to facilitate the implementation of the travel ban and assets freeze imposed by subparagraphs 3 (d) and 3 (e) of resolution 1591 (2005), in accordance with subparagraph 3 (a) (iii) of the same resolution. In this connection, however, no requests were received by the Committee either to remove the names of individuals on the consolidated travel-ban and assets-freeze lists or for exemptions to the targeted sanctions.

III. Violations and alleged violations of the sanctions regime as reported by the Panel of Experts

25. During the period under review, the Panel of Experts assessed violations of the Security Council sanctions in the context of four distinct conflicts which it had determined:

- The fight over land and resources between nomadic and agrarian Darfurians.
- Violence perpetuated as a result of lawlessness and impunity, to which the women of Darfur were particularly vulnerable.
- The war between armed opposition groups and the leadership of the Sudan and Chad, in which the Justice and Equality Movement and Chadian armed groups were the primary actors.
- Cross-border attacks by the armed forces of Chad and of the Sudan.

26. The Panel reported that most of the major armed actors in the Darfur conflict had continued to exercise their military options, violate the Security Council arms embargo and international humanitarian and human rights law, and impede the peace process. The Panel found that the Darfurian population continued to be affected by attacks and counter-attacks involving most of the armed movements,

which frequently led to the disproportionate use of force by the Sudanese Armed Forces and their auxiliary forces, and resulted in killings, injuries and displacements. The Panel also found that the women of Darfur continued to suffer from all forms of gender-based violence.

27. The Panel reported that the Government of the Sudan continued to move military equipment and supplies into the Darfur region without seeking the prior approval of the Committee, as required under paragraph 7 of resolution 1591 (2005); the Government had contended that it was complying with the Comprehensive Peace Agreement when it redeployed eight battalions to Darfur and when it sought United Nations assistance to transfer an additional four battalions to Darfur. Among the armed movements, the Panel reported that the Justice and Equality Movement was the most active violator of the arms embargo.

28. Concerning the travel ban and the assets freeze, the Panel reported that it had received no replies to its requests to the Governments of the Sudan and Chad, respectively, on the implementation of these measures.

29. The Panel further reported that almost all sides in the Darfur conflict had failed to cooperate with its monitoring efforts.

30. While some members of the Committee shared the assessments of the Panel, others pointed to what they perceived as a "disconnect" between the Panel's reporting of the security situation on the ground and the reports of other bodies, such as UNAMID, which had recorded a decrease in the level of violence. One member expressed his concern that the Panel's findings might adversely affect the political process. Other members reaffirmed the critical need for the Panel's independent presence on the ground.